

Hungary

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Freedom of the Press

Hungary's constitution protects freedom of speech and of the press, but complex and extensive media legislation adopted in 2010 is widely seen as undermining these guarantees. A ruling by the Constitutional Court in December 2011 and amendments adopted during 2011 and 2012 to meet objections from the European Commission did little to limit the power of a new media regulation authority, which is currently controlled by the ruling coalition. In July 2013, the European Parliament adopted a resolution calling on Hungary to bring its heavily amended 2010 constitution into line with European Union (EU) values and norms and expressing particular concern at the overregulation of Hungary's media. The Hungarian government called the EU report an "unfair political judgment."

The Hungarian penal code places a number of restrictions on freedom of speech through provisions that prohibit incitement to hatred, incitement to violence, incitement against a community, and denial of genocides "committed by national socialist or communist systems." Defamation remains a criminal offense in Hungary, and both defamation and related charges—for example, breach of good repute and hooliganism—are regularly brought against journalists and other writers. In March 2013, a historian was found guilty of breach of good repute for calling the far-right party Jobbik "neo-Nazi" and ordered to pay a small fine and issue an apology. Such punishments are not the norm, however—at a conference in November, a representative of the Organization for Cooperation and Security in Europe noted that even with the option to pursue a civil suit, Hungarian political figures more often press criminal charges in defamation cases. Under a November 2013 amendment to the penal code, anyone who knowingly creates or distributes false or defamatory video or audio recordings may now face a prison sentence of one to three years. The impetus for the amendment was a fabricated video published by the news website HVG.hu in October. The video shows locals apparently being bribed to vote for the ruling Fidesz party ahead of interim elections in the southern city of Baja. The communications director for the Hungarian Socialist Party (MSzP) resigned after admitting that he had submitted the tape to HVG, though he insisted he had not known the events depicted in the tape had been staged.

Freedom of information was a major issue in 2013, as the government made a number of controversial amendments to Hungary's Freedom of Information Act. The amendments, passed in April within two days of being proposed in the parliament, limited the scope of the law by allowing state bodies to reject requests for information deemed too large or "excessive" for individuals to obtain. The amendments also required a justification showing "legitimate interest" to accompany requests for information that previously had been considered public domain. Although the amendments were modified in June after being vetoed by President Janos Áder, domestic and international watchdog groups saw little improvement in the second version. A main concern is the wide margin of interpretation given to government officials, who can decide what constitutes an appropriate request by an individual. Another set of controversial amendments, passed in May, included a ban on political advertising in independent media outlets during campaign seasons, restricting advertising to state-owned outlets. Although the Constitutional Court rejected the legislation, Fidesz used its parliamentary supermajority to bypass the court and insert the amendment directly into the constitution in March. This practice is becoming more frequent as the much-weakened court, now barred from rejecting legislation based on content, continues to lose ground in the governmental balance of powers.

In June 2012, the European Commission had referred Hungary to the European Court of Justice (ECJ)

over the questionable independence of its new data protection authority, created by a new constitution enacted in April 2011 and in operation since January 2012. The commissioner of the previous data protection body was removed before the end of his term, and the leader of the new authority was appointed by the president on the recommendation of the prime minister. Originally, this official was subject to dismissal by the prime minister or president on arbitrary grounds, but that provision was revoked by the parliament in April 2012. An ECJ ruling on the issue was pending at year's end.

The restructuring of Hungary's media regulation system began in 2010, when Prime Minister Viktor Orbán's Fidesz party used its parliamentary supermajority to pass numerous mutually reinforcing legislative changes, tightening government control of the broadcast sector and extending regulation to print and online media. In July of that year, it amended the constitution, removing a passage on the government's obligation to prevent media monopolies. It then consolidated media regulation under the supervision of a single entity, the National Media and Infocommunications Authority (NMHH), whose members are elected by a two-thirds majority in the parliament and whose leader also chairs a five-person Media Council tasked with content regulation. The law gives the head of the NMHH the right to nominate the executive directors of all public media. The structure and broadly defined competencies of the NMHH and Media Council were outlined in subsequent legislation, including the Press and Media Act of November 2010 and the so-called Hungarian Media Law, which was adopted in December 2010 and came into effect on January 1, 2011. Though they share a leader and consist entirely of Fidesz nominees, the NMHH and Media Council are theoretically autonomous, both from the government and from each other.

Negotiations between Hungarian government officials, EU media monitoring bodies, and Hungarian media experts have yielded a number of relatively minor legislative amendments. In 2010–11, the rules on registration and authorization of media service providers were amended to comply with the EU's Audiovisual Media Services (AVMS) Directive, allowing print, ancillary, and on-demand media to register with the NMHH within 60 days of launching their services, rather than prior to doing so. However, all media outlets, including online services, must still register, and can be fined for failing to do so. An additional amendment protects audiovisual media service providers based in other EU member states from being fined for breaching certain provisions of the Hungarian Media Law.

Following a December 2011 ruling by the Constitutional Court, Hungary's parliament approved revisions to media legislation in 2012 that addressed 11 of the 66 recommendations made by the Council of Europe. The changes excluded print and online media from the scope of the sanctioning powers of the NMHH; revoked the media authority's right to demand data from media service providers, publishers, and program distributors; deleted a provision limiting the confidentiality of journalists' sources to stories serving the public interest; and eliminated the position of media commissioner, an appointee of the NMHH president with the authority to initiate proceedings that do not involve violations of the law and whose decisions can be enforced by NMHH-issued fines and sanctions. The unamended provisions of the law still allow the Media Council to fine a media outlet for "inciting hatred" against nations, communities, minorities, or even majorities. If found to be in violation of the law, radio and television stations may receive fines proportional to their "market power"—a number that may reach up to 200 million forints (\$914,000). These fines, which are collected as taxes by the Hungarian Tax Authority (NAV), can be demanded even before an appeals process is initiated. Since coming into force, the law had reportedly been used against 49 media outlets as of September 1, 2013. Under the Media Law, the Media Council can initiate a regulatory procedure in the case of "unbalanced reporting" and, ultimately, it can also suspend the right to broadcast.

In 2013, the parliament responded to criticism from the Council of Europe and media rights groups with two amendments modifying the rules for nominating and appointing the NMHH president. In addition to meeting new professional selection criteria, candidates for the post must be appointed by the president following a recommendation from the prime minister and nonbinding consultations with various stakeholders. The first president of the NMHH—a Fidesz politician close to Orbán who had been appointed

directly by him—passed away in April after a lengthy illness and was replaced by lawyer Monika Karas in August. Left-leaning opposition parties criticized the nomination, calling Karas a Fidesz “puppet” and alleging professional unsuitability. Karas was elected to a nine-year term.

Another controversial component of the Media Law is the system of co-regulation involving the official regulator and industry self-regulatory bodies. In July 2011, the NMHH concluded public administration agreements on media co-regulation with four Hungarian media self-regulatory bodies: the Association of Hungarian Content Providers (MTE), the Advertising Self-Regulatory Body (ÖRT), the Association of Hungarian Publishers (MLE), and the Association of Hungarian Electronic Broadcasters (MEME). These formerly independent bodies are now responsible for ensuring compliance with NMHH content rules and risk becoming instruments of censorship.

The new laws governing broadcast media content are detailed in terms of what type of programming may be played and when. Radio broadcasters must devote over one-third of their airtime to Hungarian music, while 50 percent of television programming must be devoted to European productions. As was the case under the previous media regulation authorities, broadcasters with expiring licenses are required to enter a new bid with the NMHH. Even as several radio stations were forced to stop broadcasting due to a lack of advertising revenue, license fees for Budapest-based frequencies more than doubled in 2011. Klubrádió, a popular station known for its antigovernment political commentary, finally regained control of its main frequency in March 2013 after a two-year legal battle with the Media Council, which had prevented it from renewing its broadcasting license for five frequencies after the license expired in early 2011. A few weeks earlier, the NMHH began an investigation into whether a January opinion piece in the ultraconservative daily *Magyar Hírlap* had violated the Media Law by inciting hatred toward the Roma. In May, the newspaper was fined 250,000 forints (\$1,100). There was no clear evidence during the year of anti-opposition bias in the dispersal of broadcasting licenses or application of fines.

In line with an EU directive on combating child pornography, the government made some specific attempts to regulate online media in 2013. In July, revisions to the criminal code came into effect requiring internet service providers to block content deemed illegal by a court order. Websites hosting illegal content are placed on a non-public “blacklist,” operated by the NMHH. The vaguely worded amendment, which was condemned by domestic and international actors for threatening freedom of expression, allows the government to take action if ISPs fail to heed the blocking orders.

Employees of public and private media outlets have spoken to international media and press freedom watchdog organizations about growing self-censorship by journalists and editors in the face of fines or unemployment. According to an analysis of the public service broadcasters’ news bulletins in 2013 by local media watchdog the Center for Independent Journalism, the stations “tend to select and to frame the news in a way that is favorable for the incumbent center-right government.” Violence against journalists is not common in Hungary, and no physical attacks were recorded in 2013.

Hungary enjoys a broad array of print, broadcast, and online media. Most outlets appear to identify with one or the other side of the political spectrum. The media landscape is dominated by private companies, with high levels of foreign investment in national and local newspapers. Privately held newspapers include 10 national and 24 local dailies. Hungary has five national public radio stations and two main private stations. Thanks to the activities of a small number of affluent Fidesz-aligned businesspeople, there has been a significant growth in the number of conservative or right-wing media in recent years. With a portfolio that includes print and broadcast elements as well as Hungary’s biggest outdoor advertisement company, four such individuals owning 15 companies saw the aggregate profits of their media empire increase sevenfold in 2011 compared with 2009. Despite the 30 percent drop in overall advertising revenues in the past three years, this group has managed to earn significant profits since Fidesz came to power. Imbalanced and often opaque allocation of state advertising funds contributes to conservative

media's success and distorts market competition.

Two terrestrial commercial television stations, TV2 and RTL Klub, remain the principal source of news for most Hungarians, along with a growing number of cable channels. Citing the need to exit the EU's budget monitoring process by raising revenue, in May 2013 the government proposed a progressive advertising tax that would draw most of its revenue from the country's largest broadcasters. After the bill was postponed, some alleged that Fidesz had circulated the idea of the tax to influence the sale of TV2 and deter potential foreign buyers. In December, German media group ProSiebenSat1 AG sold TV2 to its chief executive and financial director, amid speculation about the new owners' links to the conservative media empire.

The tabloidization of Hungarian broadcast media remains a major concern and has sometimes been used by the government to justify new restrictions on content. The nongovernmental organization Nyilvánosság Klub (Openness Club) monitored several public and private television and radio stations between November 7 and December 16, 2011, finding that just 23 percent of coverage in this period was devoted to international news, compared with 32 percent in 2007. The study also found that serious political coverage on public television had decreased by 30 percent since 2007.

In 2011, the government-funded news agency MTI became the official source for all public media news content. It publishes nearly all of its news and photographs online for free, and offers media service providers the ability to download and republish them. Paid-subscription news agencies and smaller media outlets with limited resources cannot compete with MTI, and the incentive to practice "copy-and-paste journalism" is high. The accuracy and objectivity of MTI reporting has come under criticism since the Orbán government came to power in 2010. State and state-dependent advertisers usually buy space in progovernment media, and many private companies have followed suit.

Under the Media Law, the funding for all public media is centralized under one body, the Media Service Support and Asset Management Fund (MTVA), supervised by the Media Council. Following large layoffs at MTVA in 2011 amid government claims of budgetary concerns, public media received a 10 percent budget increase and an increase of approximately 2 percent the following year.

Diversity is on the rise in online media. Most notably, there has been an increase in domestically owned internet-based outlets. At nearly 73 percent, Hungary's internet penetration is just below the European average, according to the International Telecommunication Union. Data published by the NMHH in 2013 indicate the persistence of a significant gap between the usage rates in Budapest (73 percent) and the rest of the country (58 percent).

2014 Scores

Press Status

Partly Free

Press Freedom Score

(0 = best, 100 = worst)

35

Legal Environment

(0 = best, 30 = worst)

11

Political Environment

(0 = best, 40 = worst)

13

Economic Environment

(0 = best, 30 = worst)

11